

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

§  
**REID FRIEDMAN, on behalf of himself** §  
**and all others similarly situated,** §  
§  
**Plaintiff,** §  
§  
v. §  
§  
**PENSON WORLDWIDE, INC. et al.,** §  
§  
**Defendants.** §  
§

**Civil Action No. 3:11-cv-02098-O**

**ORDER**

Before the Court is Lead Plaintiff's Emergency Motion for Leave to Modify Notice to Settlement Class (ECF No. 84), filed June 5, 2013. Lead Plaintiff requests leave to modify the proposed "Notice of Pendency and Proposed Settlement of Class Action, Final Approval Hearing, and Motion for Attorneys' Fees and Reimbursement of Expenses" to state that Lead Counsel may apply to the Court for reimbursement of expenses not to exceed \$325,000, rather than \$250,000. *See* Emergency Mot. Leave Modify Notice Ex. A (Notice), ¶ 5, ECF No. 84. After Lead Plaintiff moved for, among other things, approval of the form and manner of notice to the settlement class, Defendant Penson Worldwide, Inc. filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. *See* Mot. Prelim. Approval Settlement, ECF No. 74; *see generally* Notice Bankruptcy, ECF No. 79. In connection with the bankruptcy proceedings, Lead Plaintiff retained bankruptcy counsel and incurred additional expenses on behalf of the settlement class. Emergency Mot. Leave Modify Notice 2, ECF No. 84. Accordingly, Lead Plaintiff requests that the Court increase the amount of expenses for which it may

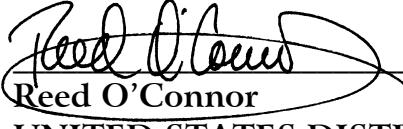
apply from \$250,000 to \$325,000. *Id.* Lead Plaintiff filed this as an emergency motion because the Settlement Administrator anticipates disseminating the Notice on June 7, 2013. *Id.*

The Certificate of Conference indicates that Defendants Penson Worldwide, Inc., Philip A. Pendergraft, Kevin W. McAleer, Roger J. Engemoen, Daniel P. Son, and Thomas R. Johnson do not oppose Lead Plaintiff's motion. However, at the time the motion was filed, counsel for Defendants BDO Seidman, LLP and BDO USA, LLP had not yet determined whether BDO Seidman, LLP and BDO USA, LLP opposed the motion or not. The Court ordered that any opposition to Lead Plaintiff's motion must be filed no later than 2:00 p.m. on June 6, 2013. No defendants filed any opposition to Lead Plaintiff's motion by this deadline. The Court interprets BDO Seidman, LLP and BDO USA, LLP's failure to file any opposition by the Court's deadline as an indication that they are unopposed to Lead Plaintiff's request. Accordingly, the Court treats Lead Plaintiff's motion as unopposed.

Having considered the motion, the Court finds it is well-taken and should be and is hereby **GRANTED.**

Accordingly, it is **ORDERED** that Lead Plaintiff may modify paragraph five of the "Notice of Pendency and Proposed Settlement of Class Action, Final Approval Hearing, and Motion for Attorneys' Fees and Reimbursement of Expenses," attached as exhibit "A" to Lead Plaintiff's motion, to state that Lead Counsel may apply to the Court for reimbursement of expenses not to exceed \$325,000.

**SO ORDERED** on this **6th** day of **June, 2013.**

  
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Reed O'Connor  
UNITED STATES DISTRICT JUDGE